



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0089

Introduced 1/12/2011, by Rep. Chapin Rose - Chad Hays - Roger L. Eddy - Robert W. Pritchard - Raymond Poe, et al.

SYNOPSIS AS INTRODUCED:

See Index

Creates the Public University Procurement Act. Creates the State University Procurement System, governed by a board consisting of one member appointed by each public university's board of trustees. Requires the System to (1) develop a proposed Procurement Code for Public Universities; (2) implement the Code, in conjunction with each university, after approval by the Joint Committee on Administrative Rules; (3) hire and oversee a full-time Chief Procurement Officer for Public Universities; (4) develop university procurement policies on an ongoing basis; (5) evaluate a university's procurement performance on an ongoing basis; (6) develop an electronic procurement bulletin for the public advertising of all university purchasing opportunities above bid limits; (7) provide sole source hearings for those items in which vendor questions or issues have been raised, with final determinations made by the Chief Procurement Officer; (8) under the Code, require certification to conduct business in this State at the time of an award; and (9) develop diversity goals and a certification process that recognizes higher education's commitment to diversity and to annually publish the results. Provides for an Auditor General audit and report. Repeals the Act on July 1, 2016. Amends the Illinois Procurement Code to provide that from the effective date of the amendatory Act until July 1, 2016, the Code does not apply to public universities in this State. Amends various Acts relating to the governance of public universities in Illinois to provide that no university shall be obligated to comply with (i) any mandate in the Act enacted after the effective date of the amendatory Act or (2) any regulatory mandate promulgated by the Board of Higher Education and adopted by rule. Effective immediately.

LRB097 05408 RPM 45466 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Public
5 University Procurement Act.

6 Section 5. Definitions. In this Act:

7 "Code" means the Procurement Code for Public Universities.

8 "System" means the State University Procurement System.

9 "University" means a public university in this State.

10 Section 10. System created.

11 (a) There is created the State University Procurement
12 System, governed by a board consisting of one member appointed
13 by each university's board of trustees.

14 (b) The System shall have all of the following
15 responsibilities:

16 (1) To develop a proposed Procurement Code for Public
17 Universities.

18 (2) To implement the Code, in conjunction with each
19 university, after approval under Section 20 of this Act.

20 (3) To hire, for a term to expire on July 1, 2016, and
21 oversee a full-time Chief Procurement Officer for Public
22 Universities, who must be professionally credentialed.

1 (4) To develop university procurement policies on an
2 ongoing basis.

3 (5) To evaluate a university's procurement performance
4 on an ongoing basis.

5 (6) To develop an electronic procurement bulletin for
6 the public advertising of all university purchasing
7 opportunities above bid limits.

8 (7) To provide sole source hearings for those items in
9 which vendor questions or issues have been raised, with
10 final determinations made by the Chief Procurement
11 Officer.

12 (8) Under the Code, to require certification to conduct
13 business in this State at the time of an award, including
14 subcontractors above prescribed levels through a
15 prequalification process whose results can be accessed by
16 universities.

17 (9) To develop diversity goals and a certification
18 process that recognizes higher education's commitment to
19 diversity, with goals that are at least as rigorous as the
20 Business Enterprise for Minorities, Females, and Persons
21 with Disabilities Act, and to annually publish the results.

22 Section 15. Chief Procurement Officer duties. The Chief
23 Procurement Officer for Public Universities shall have both of
24 the following duties:

25 (1) To develop and implement the Code in conjunction

1 with the System and universities.

2 (2) To appoint a State procurement officer for each
3 university, who must, at a minimum, hold a bachelor's
4 degree and be professionally credentialed within 3 years
5 after appointment.

6 Section 20. Approval of Code. The System shall recommend a
7 proposed Code to the Joint Committee on Administrative Rules
8 (JCAR). JCAR shall review and approve the Code prior to
9 implementation. The System must submit to JCAR and JCAR must
10 approve any changes to the Code, including without limitation
11 bid thresholds, prior to implementation of those changes.

12 Section 25. Audit. The Auditor General shall audit each
13 university's compliance with the Code on or before December 1,
14 2015 and report its findings and recommendations on cost
15 avoidance and savings to the General Assembly by filing copies
16 of its report on or before December 31, 2015 as provided in
17 Section 3.1 of the General Assembly Organization Act.

18 Section 85. Expiration. This Act is repealed on July 1,
19 2016.

20 Section 90. The Illinois Procurement Code is amended by
21 changing Section 1-10 as follows:

1 (30 ILCS 500/1-10)

2 Sec. 1-10. Application.

3 (a) This Code applies only to procurements for which
4 contractors were first solicited on or after July 1, 1998. This
5 Code shall not be construed to affect or impair any contract,
6 or any provision of a contract, entered into based on a
7 solicitation prior to the implementation date of this Code as
8 described in Article 99, including but not limited to any
9 covenant entered into with respect to any revenue bonds or
10 similar instruments. All procurements for which contracts are
11 solicited between the effective date of Articles 50 and 99 and
12 July 1, 1998 shall be substantially in accordance with this
13 Code and its intent.

14 (b) This Code shall apply regardless of the source of the
15 funds with which the contracts are paid, including federal
16 assistance moneys. This Code shall not apply to:

17 (1) Contracts between the State and its political
18 subdivisions or other governments, or between State
19 governmental bodies except as specifically provided in
20 this Code.

21 (2) Grants, except for the filing requirements of
22 Section 20-80.

23 (3) Purchase of care.

24 (4) Hiring of an individual as employee and not as an
25 independent contractor, whether pursuant to an employment
26 code or policy or by contract directly with that

1 individual.

2 (5) Collective bargaining contracts.

3 (6) Purchase of real estate, except that notice of this
4 type of contract with a value of more than \$25,000 must be
5 published in the Procurement Bulletin within 7 days after
6 the deed is recorded in the county of jurisdiction. The
7 notice shall identify the real estate purchased, the names
8 of all parties to the contract, the value of the contract,
9 and the effective date of the contract.

10 (7) Contracts necessary to prepare for anticipated
11 litigation, enforcement actions, or investigations,
12 provided that the chief legal counsel to the Governor shall
13 give his or her prior approval when the procuring agency is
14 one subject to the jurisdiction of the Governor, and
15 provided that the chief legal counsel of any other
16 procuring entity subject to this Code shall give his or her
17 prior approval when the procuring entity is not one subject
18 to the jurisdiction of the Governor.

19 (8) Contracts for services to Northern Illinois
20 University by a person, acting as an independent
21 contractor, who is qualified by education, experience, and
22 technical ability and is selected by negotiation for the
23 purpose of providing non-credit educational service
24 activities or products by means of specialized programs
25 offered by the university.

26 (9) Procurement expenditures by the Illinois

1 Conservation Foundation when only private funds are used.

2 (10) Procurement expenditures by the Illinois Health
3 Information Exchange Authority involving private funds
4 from the Health Information Exchange Fund. "Private funds"
5 means gifts, donations, and private grants.

6 (c) This Code does not apply to the electric power
7 procurement process provided for under Section 1-75 of the
8 Illinois Power Agency Act and Section 16-111.5 of the Public
9 Utilities Act.

10 (d) Except for Section 20-160 and Article 50 of this Code,
11 and as expressly required by Section 9.1 of the Illinois
12 Lottery Law, the provisions of this Code do not apply to the
13 procurement process provided for under Section 9.1 of the
14 Illinois Lottery Law.

15 (e) From the effective date of this amendatory Act of the
16 97th General Assembly until July 1, 2016, this Code does not
17 apply to the University of Illinois, Southern Illinois
18 University, Illinois State University, Eastern Illinois
19 University, Northern Illinois University, Western Illinois
20 University, Chicago State University, Governor State
21 University, and Northeastern Illinois University.

22 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
23 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff.
24 7-27-10.)

25 Section 100. The University of Illinois Act is amended by

1 adding Section 80 as follows:

2 (110 ILCS 305/80 new)

3 Sec. 80. Unfunded mandates prohibited.

4 (a) The University shall not be obligated to comply with
5 the following types of mandates unless a separate appropriation
6 has been enacted into law providing full funding for the
7 mandate for the academic year during which the mandate is
8 required:

9 (1) Any mandate in this Act enacted after the effective
10 date of this amendatory Act of the 97th General Assembly.

11 (2) Any regulatory mandate promulgated by the Board of
12 Higher Education and adopted by rule after the effective
13 date of this amendatory Act of the 97th General Assembly
14 other than those promulgated with respect to this Section
15 or statutes already enacted on or before the effective date
16 of this amendatory Act of the 97th General Assembly.

17 (b) If the amount appropriated to fund a mandate described
18 in subsection (a) of this Section does not fully fund the
19 mandated activity, then the University may choose to
20 discontinue or modify the mandated activity to ensure that the
21 costs of compliance do not exceed the funding received.

22 (c) If the University discontinues or modifies a mandated
23 activity due to lack of full funding from this State, then the
24 University shall annually maintain and update a list of
25 discontinued or modified mandated activities. The list shall be

1 provided to the Board of Higher Education upon request.

2 Section 105. The Southern Illinois University Management
3 Act is amended by adding Section 65 as follows:

4 (110 ILCS 520/65 new)

5 Sec. 65. Unfunded mandates prohibited.

6 (a) The University shall not be obligated to comply with
7 the following types of mandates unless a separate appropriation
8 has been enacted into law providing full funding for the
9 mandate for the academic year during which the mandate is
10 required:

11 (1) Any mandate in this Act enacted after the effective
12 date of this amendatory Act of the 97th General Assembly.

13 (2) Any regulatory mandate promulgated by the Board of
14 Higher Education and adopted by rule after the effective
15 date of this amendatory Act of the 97th General Assembly
16 other than those promulgated with respect to this Section
17 or statutes already enacted on or before the effective date
18 of this amendatory Act of the 97th General Assembly.

19 (b) If the amount appropriated to fund a mandate described
20 in subsection (a) of this Section does not fully fund the
21 mandated activity, then the University may choose to
22 discontinue or modify the mandated activity to ensure that the
23 costs of compliance do not exceed the funding received.

24 (c) If the University discontinues or modifies a mandated

1 activity due to lack of full funding from this State, then the
2 University shall annually maintain and update a list of
3 discontinued or modified mandated activities. The list shall be
4 provided to the Board of Higher Education upon request.

5 Section 110. The Chicago State University Law is amended by
6 adding Section 5-175 as follows:

7 (110 ILCS 660/5-175 new)

8 Sec. 5-175. Unfunded mandates prohibited.

9 (a) The University shall not be obligated to comply with
10 the following types of mandates unless a separate appropriation
11 has been enacted into law providing full funding for the
12 mandate for the academic year during which the mandate is
13 required:

14 (1) Any mandate in this Act enacted after the effective
15 date of this amendatory Act of the 97th General Assembly.

16 (2) Any regulatory mandate promulgated by the Board of
17 Higher Education and adopted by rule after the effective
18 date of this amendatory Act of the 97th General Assembly
19 other than those promulgated with respect to this Section
20 or statutes already enacted on or before the effective date
21 of this amendatory Act of the 97th General Assembly.

22 (b) If the amount appropriated to fund a mandate described
23 in subsection (a) of this Section does not fully fund the
24 mandated activity, then the University may choose to

1 discontinue or modify the mandated activity to ensure that the
2 costs of compliance do not exceed the funding received.

3 (c) If the University discontinues or modifies a mandated
4 activity due to lack of full funding from this State, then the
5 University shall annually maintain and update a list of
6 discontinued or modified mandated activities. The list shall be
7 provided to the Board of Higher Education upon request.

8 Section 115. The Eastern Illinois University Law is amended
9 by adding Section 10-175 as follows:

10 (110 ILCS 665/10-175 new)

11 Sec. 10-175. Unfunded mandates prohibited.

12 (a) The University shall not be obligated to comply with
13 the following types of mandates unless a separate appropriation
14 has been enacted into law providing full funding for the
15 mandate for the academic year during which the mandate is
16 required:

17 (1) Any mandate in this Act enacted after the effective
18 date of this amendatory Act of the 97th General Assembly.

19 (2) Any regulatory mandate promulgated by the Board of
20 Higher Education and adopted by rule after the effective
21 date of this amendatory Act of the 97th General Assembly
22 other than those promulgated with respect to this Section
23 or statutes already enacted on or before the effective date
24 of this amendatory Act of the 97th General Assembly.

1 (b) If the amount appropriated to fund a mandate described
2 in subsection (a) of this Section does not fully fund the
3 mandated activity, then the University may choose to
4 discontinue or modify the mandated activity to ensure that the
5 costs of compliance do not exceed the funding received.

6 (c) If the University discontinues or modifies a mandated
7 activity due to lack of full funding from this State, then the
8 University shall annually maintain and update a list of
9 discontinued or modified mandated activities. The list shall be
10 provided to the Board of Higher Education upon request.

11 Section 120. The Governors State University Law is amended
12 by adding Section 15-175 as follows:

13 (110 ILCS 670/15-175 new)

14 Sec. 15-175. Unfunded mandates prohibited.

15 (a) The University shall not be obligated to comply with
16 the following types of mandates unless a separate appropriation
17 has been enacted into law providing full funding for the
18 mandate for the academic year during which the mandate is
19 required:

20 (1) Any mandate in this Act enacted after the effective
21 date of this amendatory Act of the 97th General Assembly.

22 (2) Any regulatory mandate promulgated by the Board of
23 Higher Education and adopted by rule after the effective
24 date of this amendatory Act of the 97th General Assembly

1 other than those promulgated with respect to this Section
2 or statutes already enacted on or before the effective date
3 of this amendatory Act of the 97th General Assembly.

4 (b) If the amount appropriated to fund a mandate described
5 in subsection (a) of this Section does not fully fund the
6 mandated activity, then the University may choose to
7 discontinue or modify the mandated activity to ensure that the
8 costs of compliance do not exceed the funding received.

9 (c) If the University discontinues or modifies a mandated
10 activity due to lack of full funding from this State, then the
11 University shall annually maintain and update a list of
12 discontinued or modified mandated activities. The list shall be
13 provided to the Board of Higher Education upon request.

14 Section 125. The Illinois State University Law is amended
15 by adding Section 20-180 as follows:

16 (110 ILCS 675/20-180 new)

17 Sec. 20-180. Unfunded mandates prohibited.

18 (a) The University shall not be obligated to comply with
19 the following types of mandates unless a separate appropriation
20 has been enacted into law providing full funding for the
21 mandate for the academic year during which the mandate is
22 required:

23 (1) Any mandate in this Act enacted after the effective
24 date of this amendatory Act of the 97th General Assembly.

1 (2) Any regulatory mandate promulgated by the Board of
2 Higher Education and adopted by rule after the effective
3 date of this amendatory Act of the 97th General Assembly
4 other than those promulgated with respect to this Section
5 or statutes already enacted on or before the effective date
6 of this amendatory Act of the 97th General Assembly.

7 (b) If the amount appropriated to fund a mandate described
8 in subsection (a) of this Section does not fully fund the
9 mandated activity, then the University may choose to
10 discontinue or modify the mandated activity to ensure that the
11 costs of compliance do not exceed the funding received.

12 (c) If the University discontinues or modifies a mandated
13 activity due to lack of full funding from this State, then the
14 University shall annually maintain and update a list of
15 discontinued or modified mandated activities. The list shall be
16 provided to the Board of Higher Education upon request.

17 Section 130. The Northeastern Illinois University Law is
18 amended by adding Section 25-175 as follows:

19 (110 ILCS 680/25-175 new)

20 Sec. 25-175. Unfunded mandates prohibited.

21 (a) The University shall not be obligated to comply with
22 the following types of mandates unless a separate appropriation
23 has been enacted into law providing full funding for the
24 mandate for the academic year during which the mandate is

1 required:

2 (1) Any mandate in this Act enacted after the effective
3 date of this amendatory Act of the 97th General Assembly.

4 (2) Any regulatory mandate promulgated by the Board of
5 Higher Education and adopted by rule after the effective
6 date of this amendatory Act of the 97th General Assembly
7 other than those promulgated with respect to this Section
8 or statutes already enacted on or before the effective date
9 of this amendatory Act of the 97th General Assembly.

10 (b) If the amount appropriated to fund a mandate described
11 in subsection (a) of this Section does not fully fund the
12 mandated activity, then the University may choose to
13 discontinue or modify the mandated activity to ensure that the
14 costs of compliance do not exceed the funding received.

15 (c) If the University discontinues or modifies a mandated
16 activity due to lack of full funding from this State, then the
17 University shall annually maintain and update a list of
18 discontinued or modified mandated activities. The list shall be
19 provided to the Board of Higher Education upon request.

20 Section 135. The Northern Illinois University Law is
21 amended by adding Section 30-185 as follows:

22 (110 ILCS 685/30-185 new)

23 Sec. 30-185. Unfunded mandates prohibited.

24 (a) The University shall not be obligated to comply with

1 the following types of mandates unless a separate appropriation
2 has been enacted into law providing full funding for the
3 mandate for the academic year during which the mandate is
4 required:

5 (1) Any mandate in this Act enacted after the effective
6 date of this amendatory Act of the 97th General Assembly.

7 (2) Any regulatory mandate promulgated by the Board of
8 Higher Education and adopted by rule after the effective
9 date of this amendatory Act of the 97th General Assembly
10 other than those promulgated with respect to this Section
11 or statutes already enacted on or before the effective date
12 of this amendatory Act of the 97th General Assembly.

13 (b) If the amount appropriated to fund a mandate described
14 in subsection (a) of this Section does not fully fund the
15 mandated activity, then the University may choose to
16 discontinue or modify the mandated activity to ensure that the
17 costs of compliance do not exceed the funding received.

18 (c) If the University discontinues or modifies a mandated
19 activity due to lack of full funding from this State, then the
20 University shall annually maintain and update a list of
21 discontinued or modified mandated activities. The list shall be
22 provided to the Board of Higher Education upon request.

23 Section 140. The Western Illinois University Law is amended
24 by adding Section 35-180 as follows:

1 (110 ILCS 690/35-180 new)

2 Sec. 35-180. Unfunded mandates prohibited.

3 (a) The University shall not be obligated to comply with
4 the following types of mandates unless a separate appropriation
5 has been enacted into law providing full funding for the
6 mandate for the academic year during which the mandate is
7 required:

8 (1) Any mandate in this Act enacted after the effective
9 date of this amendatory Act of the 97th General Assembly.

10 (2) Any regulatory mandate promulgated by the Board of
11 Higher Education and adopted by rule after the effective
12 date of this amendatory Act of the 97th General Assembly
13 other than those promulgated with respect to this Section
14 or statutes already enacted on or before the effective date
15 of this amendatory Act of the 97th General Assembly.

16 (b) If the amount appropriated to fund a mandate described
17 in subsection (a) of this Section does not fully fund the
18 mandated activity, then the University may choose to
19 discontinue or modify the mandated activity to ensure that the
20 costs of compliance do not exceed the funding received.

21 (c) If the University discontinues or modifies a mandated
22 activity due to lack of full funding from this State, then the
23 University shall annually maintain and update a list of
24 discontinued or modified mandated activities. The list shall be
25 provided to the Board of Higher Education upon request.

26 Section 999. Effective date. This Act takes effect upon

1 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 30 ILCS 500/1-10

5 110 ILCS 305/80 new

6 110 ILCS 520/65 new

7 110 ILCS 660/5-175 new

8 110 ILCS 665/10-175 new

9 110 ILCS 670/15-175 new

10 110 ILCS 675/20-180 new

11 110 ILCS 680/25-175 new

12 110 ILCS 685/30-185 new

13 110 ILCS 690/35-180 new